

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 01-CR-80361
HON. GEORGE CARAM STEEH

JOHN DEJUAN HATCHER,

Defendant.

_____ /

ORDER DENYING DEFENDANT'S MOTION
TO DISMISS AND VACATE ALL CHARGES (# 229)
AND DENYING CERTIFICATE OF APPEALABILITY

Defendant John DeJuan Hatcher, appearing pro per, moves for dismissal of all criminal charges arguing: (1) the United States Attorney General did not authorize any charges or submit any evidence to the grand jury; (2) the President of the United States did not issue an Executive Order authorizing the United States District Court for the Eastern District of Michigan to adjudicate any process against him; (3) the Secretary of the Treasury did not issue a Certificate of Protest to the United States Attorney General to institute criminal proceedings against him; and (4) the areas of Sterling Heights, Michigan and New Haven, Michigan, where he committed his two bank robberies, are not within the "Special Admiralty Maritime Jurisdiction" of the United States, and therefore there was a lack of personal subject matter jurisdiction. Hatcher conveys that this motion is "not to be construed as 2255."

This court dismissed Hatcher's prior motion for relief under § 28 U.S.C. § 2255 on

June 26, 2006. The underlying circumstances of Hatcher's two armed robbery convictions are set forth in that order. See also United States v. McNeil, 106 Fed. App'x 294 (6th Cir. July 1, 2004). The Sixth Circuit Court of Appeals denied Hatcher's motion for a certificate of appealability of the June 26, 2006 Order denying § 2255 relief on March 13, 2008. Hatcher filed the instant motion more than a year later, on November 19, 2009.

Notwithstanding Hatcher's demand that this motion not be construed as a § 2255 motion, the motion falls within the purview of § 2255 relief. See 28 U.S.C. § 2255(a). As such, the motion is untimely, and constitutes a successive § 2255 motion for which Hatcher has not secured a requisite certification from the Sixth Circuit Court of Appeals. See 28 U.S.C. §§ 2255(f) (1-year limitations period), (h) (requiring that second or successive motion must be certified by a panel of the appropriate court of appeals). The motion is also frivolous, and wholly without merit, whether or not construed as a § 2255 motion. Accordingly, and for all of these reasons,

Hatcher's motion to dismiss and vacate all criminal charges is hereby DENIED. In that Hatcher has not made any showing of the denial of a constitutional right, a certificate of appealability is hereby DENIED. See 28 U.S.C. § 2253(c)(2).

SO ORDERED.

s/George Caram Steeh

GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

Dated: November 30, 2009

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
November 30, 2009, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk